

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 241 OF 2004

Nandkumar R. Baswant..... .. Petitioner.

Versus

The State of Maharashtra & Anr.... Respondents.

Mr. A.R.Pitale for the Petitioner.

Mr. D.S.Mhaisapurkar, APP for the State.

Respondent No.2 present in person.

CORAM : A. M. KHANWILKAR, J.

DATED : 10TH SEPTEMBER, 2004.

P.C.:

The first argument canvased before this Court is that the Petitioner had not issued the cheque in discharge of his legal obligation but the payment was made for and on behalf of one J.S. Bhatt.

2. This submission cannot be the basis for quashing the complaint which is the relief claimed in this petition. That argument may be available to the Petitioner as defence so as to rebut the legal

presumption which will prevail on account of issuance of cheque in favour of the Complainant which has been dishonoured.

3. The next argument canvased before this Court is that the amount which was paid to the Complainant by cheque was in relation to land which is already a subject matter of inquiry in MPID Case. Even this argument will be of no avail because the present offence is an independent offence relating to provisions under the Negotiable Instrument Act in respect of dishonour of cheque issued by the Applicant. Pendency of the said inquiry cannot be the basis for dismissing the Complaint which is a relief claimed in this Petition.

4. No other argument is canvased before me. In the circumstances, this Petition is dismissed leaving all contentions available to the parties before the trial Court on the merits of the case, which will be decided by the trial Court on the basis of the evidence adduced in accordance with the law.

Sd/-

(A. M. KHANWILKAR, J.)